

## HUMAN SERVICES BOARD

# INTRODUCTION

## FINDINGS OF FACT

2. PATH was unaware of this income and calculated the petitioner's benefits without regard to it. The error was discovered by a worker in August of 2003 and the petitioner was notified on August 22, 2003 that he had been overpaid over the last twelve months in the amount of \$720.<sup>1</sup>

<sup>1</sup> PATH regulations restrict overpayment calculations retroactive to twelve months before discovery of the error unless the failure to report the income was intentional. WAM 2234.2.

3. The petitioner claims that he called his worker at the time the Social Security was first received to report it. The worker originally involved no longer works at PATH and the call was not recorded. However, because the petitioner has a history of cooperating with reporting changes to PATH, PATH has agreed to treat the matter as an administrative error on its part.

4. The petitioner does not dispute that he should have been paid \$720 less in RUFA benefits over the preceding twelve months. However, as a person of very limited income with three children to support who did not cause the overpayment, he does not feel it is fair to be asked to repay the overpaid amount.

ORDER

The decision of PATH is affirmed.

REASONS

PATH's regulations require that overpayments in the Reach Up program be established and collected, in pertinent part, as follows:

Overpayments of assistance, whether resulting from administrative error, client error or payments made pending fair hearing which is subsequently determined in favor of the Department, shall be subject to recoupment. Recovery of an overpayment can be made through repayment

by the recipient of the overpayment, or by reducing the amount of payment being received by the ANFC group of which he is a member.

. . .

Recoupment shall be made each month from any gross income (without application of disregards), liquid resources and ANFC payments so long as the assistance unit retains from its combined income 90 percent of the amount payable to an assistance unit of the same composition with no income. For assistance units with no other income, the amount of the recoupment will equal 10 percent of the grant amount.

If, however, the overpayment results from Department error or oversight, the assistance unit must retain from its combined income 95 percent of the amount payable to an assistance unit of the same composition with no income. For assistance units with no other income, the amount of the recoupment will equal 5 percent of the grant amount.

. . .

W.A.M. 2234.2

The above regulation requires that overpayments be established and collected in all cases, including those in which the client has no fault. However the regulation does allow a lower recoupment rate when the overpayment was the result of the Department's error. As sympathetic as the petitioner's situation is, it must be found that PATH's decision is correct because it is consistent with its regulation. The Board is constrained to affirm the decision

of PATH in that circumstance. See 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

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